

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

REYNALDO GRIJULUA-HERNANDEZ,
a/k/a Juan Quinones,

Defendant.

No. 10-CR-4008-DEO

**ORDER REGARDING REPORT AND
RECOMMENDATION CONCERNING
GUILTY PLEA AND SCHEDULING
SENTENCING HEARING**

I. INTRODUCTION AND BACKGROUND

On February 25, 2010, a one Count Indictment (Docket No. 2, 02/25/2010) was returned against defendant Reynaldo Grijulua-Hernandez, a/k/a Juan Quinones. Count 1 of that Indictment charges that on or about January 21, 2010, in the Northern District of Iowa, defendant Reynaldo Grijulua-Hernandez, a/k/a Juan Quinones, an alien, was found in the United States after having been removed from the United States. Defendant had been removed on or about November 20, 2008, and had not obtained the express consent of the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Section

202(3) and (4) and Section 557), to reapply for admission to the United States.

Defendant's removal was subsequent to a conviction for a felony offense, to wit:

On or about April 8, 2008, Reynaldo Grijulua was convicted of driving under the influence, aggravated third offense, a Class IIIA felony, in the District Court of Dakota County, Nebraska.

This was in violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(1).

On March 11, 2010, defendant Reynaldo Grijulua-Hernandez appeared before United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count 1 of the Indictment. On the same date, United States Magistrate Judge Zoss filed a Report and Recommendation (Docket No. 13, 03/11/2010) in which he recommends that defendant Reynaldo Grijulua-Hernandez's guilty plea be accepted. No objections to Judge Zoss's Report and Recommendation were filed. The Court, therefore, undertakes the necessary review of Judge Zoss's recommendation to accept defendant Reynaldo Grijulua-Hernandez's plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

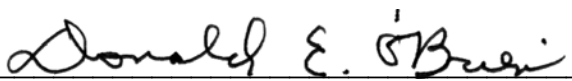
FED. R. CIV. P. 72(b).

In this case, no objections have been filed, and it appears to the Court upon review of Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

IT IS THEREFORE HEREBY ORDERED that this Court accepts Judge Zoss's Report and Recommendation (Docket No. 13), and accepts defendant's plea of guilty in this case to Count 1 of the Indictment filed on February 25, 2010 (Docket No. 2).

IT IS FURTHER HEREBY ORDERED that the sentencing hearing of defendant Reynaldo Grijulua-Hernandez shall take place before this Court on **Tuesday, June 29, 2010, at 1:30 p.m.**

IT IS SO ORDERED this 6th day of May, 2010.



Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa